

February 3, 2021

The Honorable Ruth Ryder
Deputy Assistant Secretary
Office of Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Deputy Assistant Secretary Ryder,

I am writing to request a waiver for the State of South Dakota, pursuant to section 8401(b) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, of the requirements listed below.

- Reporting on the economically disadvantaged subgroup of students as defined in ESEA section 1111(c)(2)(A).
- Reporting on disproportionate rates of access to educators as defined in ESEA section 1111(g)(1)(B).
- Administration of the science assessment as defined in ESEA section 1111(b).
- Annual measurement of achievement with 95 percent student participation in statewide assessments as defined in ESEA section 1111(c)(4)(E)(iii).
- Annual reporting of student achievement on the statewide summative general and alternate assessments as defined in ESEA section 1111(h)(1)(C)(ii, vii, & xi) and 1111(h)(2)(C)(i)-(ii).
- Annual assessment of English language proficiency of all English learners as defined in ESEA section 1111(b)(2)(G)(i).
- Annual reporting of the English language proficiency assessment results as defined in ESEA section 1111(h)(1)(C)(iv).
- Annual identification of schools for targeted support and improvement (TSI) due to the consistent underperformance of one or more subgroups as defined in ESEA section 1111(c)(4)(C)(iii).

Background

South Dakota has experienced unprecedented challenges in the 2020-21 school year due to the COVID-19 pandemic. Students have been forced to switch between remote, hybrid, and in-person learning models due to classroom or school outbreaks, close contact to infected persons, or personal illness. Four school districts and many individual students opted for 100 percent remote learning for the 2020-21 school year. These unconventional learning conditions have raised serious equity concerns regarding access to resources necessary for learning. In South Dakota, Native American and Black communities have been disproportionately impacted by the

COVID-19 pandemic. The four public school districts implementing 100 percent remote learning are all located in reservation counties. South Dakota is concerned about the quality of data it can collect under these unique circumstances. Specifically, South Dakota is worried about non-random missing data related to remote instruction and the differential impact of COVID-19 on minority communities.

Economically Disadvantaged Subgroup

The South Dakota Department of Education requests that this waiver apply to the reporting of data from the 2020-21 school year for the economically disadvantaged subgroup. Due to the COVID-19 pandemic, South Dakota expanded eligibility for summer feeding options in 2020 through a USDA Area Eligibility Waiver. The waiver removed the requirement that all Seamless Summer Option (SSO) and Summer Food Service Program (SFSP) sites must be located in areas where 50% or more of participants are eligible for free or reduced-price meals. The waiver was later extended through the entire 2020-21 school year. Schools that decided to use the summer feeding programs to provide free meals for their students were not allowed to continue collecting free and reduced-price applications in the 2020-21 school year, because that information was no longer establishing a free and reduced-price meal benefit. In South Dakota, 127 public school districts extended the summer feeding flexibility and stopped collecting applications. Unfortunately, South Dakota's accountability system uses data from the free and reduced meal program to identify students as economically disadvantaged. South Dakota tried to identify another way to collect information on economic disadvantage but could not find data comparable to the free and reduced-meal program data. Without this data, South Dakota will not be able to identify the economically disadvantaged subgroup of students or produce any related data files.

Disproportionate Rates of Access to Educators

The South Dakota Department of Education requests that this waiver apply to the reporting of disproportionate rates of access to educators for low-income and minority children in the 2020-21 school year. As mentioned above, South Dakota does not have meaningful data from the free and reduced-price meal program. South Dakota uses this data to identify low-income children and classify schools as high or low poverty. Without this information, South Dakota cannot fulfill the requirements for reporting disproportionate rates of access to educators or produce any data files related to poverty status.

Administration of the Science Assessment

The South Dakota Department of Education requests that this waiver, regarding the science assessment, applies to the administration of the general and alternate science summative assessments in the spring of 2021.

South Dakota is in the process of updating the science assessment program to reflect the new South Dakota State Academic Standards in Science adopted in 2015. This spring, South Dakota is scheduled to administer a new science assessment and use the results to determine cut-scores for proficiency. With the implementation of unconventional learning methods due to the COVID-19 pandemic, the assessment results from the spring of 2021 will not be comparable to

other years and will not correctly describe science achievement in South Dakota. Thus, the assessment results should not be used to set standards and will not aid in the development of the science assessment program. South Dakota does not want to further burden school districts with test administration, if the assessment results will not be useful for the science assessment program.

Annual Measurement of Achievement with 95 Percent Participation

The South Dakota Department of Education requests that this waiver, as it pertains to 95 percent student participation in statewide assessments, applies to the statewide assessments administered in the spring of 2021.

Due to equity and security concerns surrounding remote assessment administration, South Dakota plans to administer the ELA and mathematics general and alternate assessments in-person only in the spring of 2021. With many students remote learning at any given time, South Dakota does not expect to reach the 95 percent participation threshold for statewide assessments this year. While South Dakota will encourage school districts to test as many students as possible, South Dakota will not dismiss safety protocols for the purpose of testing.

Annual Reporting of Achievement

The South Dakota Department of Education requests that this waiver of annual reporting of student achievement, applies to the reporting of ELA, mathematics, and science assessment results along with the ELA, mathematics, and science alternate assessment results from the spring of 2021.

As described above, South Dakota does not plan to administer the general or alternate science assessment in the spring of 2021; therefore, South Dakota will not have science achievement results to report. Although South Dakota will be administering the ELA and mathematics general and alternate assessments in the spring of 2021, the assessments will be offered in-person only and South Dakota does not expect to reach the desired participation threshold. With fewer students expected to participate in the assessments and the differential impact of COVID-19 on minority communities, the results of the state assessments will not accurately reflect student performance in South Dakota.

Annual Assessment of All English Learners

The South Dakota Department of Education requests that this waiver pertaining to the annual assessment of English proficiency of all English learners applies to the South Dakota English Language Proficiency (SD-ELP) general and alternate assessments administered in the spring of 2021.

The SD-ELP assessment will be administered in-person only. South Dakota's vendor does not offer a remote option for this assessment. With many students learning remotely at any given time, South Dakota does not expect to be able to test all English learners in 2021. While South Dakota will ask school districts to test to the greatest extent possible, South Dakota will not dismiss safety guidelines for the purpose of testing. South Dakota will continue to prioritize student safety and well-being.

Annual Reporting of English Language Proficiency Results

The South Dakota Department of Education requests that this waiver, as it concerns the annual reporting of English language proficiency results, applies to the South Dakota English Language Proficiency (SD-ELP) general and alternate assessments administered in the spring of 2021.

As mentioned above, the SD-ELP assessment will be administered in-person only. Again, with many students learning remotely at any given time, South Dakota expects fewer students to participate in the SD-ELP assessment in the spring of 2021. Therefore, the results of the SD-ELP assessment will not accurately reflect the progress of English learners in South Dakota.

Targeted Support and Improvement Designations

The South Dakota Department of Education requests that this waiver of the annual identification of schools for targeted support and improvement applies to TSI designations using data from the 2020-21 school year.

South Dakota considers a school to have a “consistently underperforming” subgroup if, using a combined three consecutive years of data, the subgroup is within the lowest performing 15 percent of their respective subgroup for all eligible indicators in the accountability system. South Dakota recently created this definition of a “consistently underperforming” subgroup and the revision was submitted via an amendment. Any school with one or more consistently underperforming subgroups is identified for targeted support and improvement.

Due to the federal waiver from accountability and school identification requirements for the 2019-20 school year, South Dakota does not have three consecutive years of data on all indicators in the accountability system for identifying schools for targeted support and improvement in 2021-22. Additionally, South Dakota is requesting an addendum to its ESEA Consolidated State Plan due to the COVID-19 pandemic. The addendum includes a request to not publicly report the Student Growth and Attendance indicators, in addition to the Academic Achievement and English Language Proficiency indicators mentioned above. The combination of the 2019-20 waiver and the 2020-21 addendum leaves South Dakota without three consecutive years of data on all indicators to identify schools for targeted support and improvement in the fall of 2021.

Due to the continued lack of three years of consecutive data in future years, South Dakota may have to adjust its method for designating TSI schools. In the situation South Dakota decides to reduce the number of years of consecutive data used for identifying TSI schools, South Dakota is still hesitant to use data from the 2020-21 school year. South Dakota is concerned about non-random missing data in 2020-21 related to subgroup membership, which may skew accountability results and prevent South Dakota from identifying the “consistently underperforming” subgroups that need the most support.

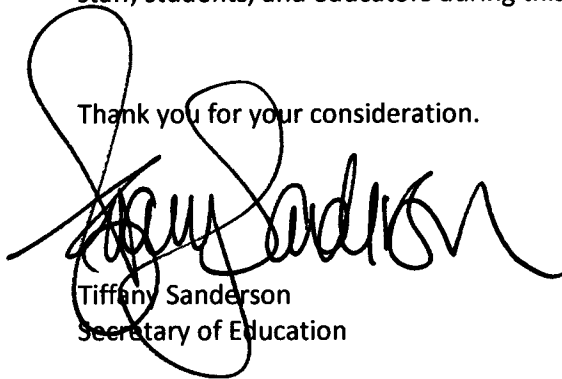
Until new TSI designations can be made, schools currently identified as TSI will remain identified unless the school was identified using old methodology. In the past, any school meeting the N-size of ten over three years could be identified as a TSI school. The current methodology requires a minimum N-size of ten in the current year alone. Schools identified using the

outdated methodology will be permitted to exit TSI status. Schools that remain identified for TSI will continue to receive support. The South Dakota Department of Education remains committed to all schools, regardless of school support status, and will continue to provide technical assistance to all.

Conclusion

South Dakota remains committed to equity and the well-being of all the state's students. With focus on that commitment, this is not the time for high-stakes accountability. The South Dakota Department of Education prefers to concentrate efforts on promoting equity and supporting staff, students, and educators during this time of need.

Thank you for your consideration.

A handwritten signature in black ink, appearing to read "Tiffany Sanderson", written over the typed name and title.

Tiffany Sanderson
Secretary of Education